

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

AARON JOSEPH STRAITEN,

Defendant and Appellant.

A155951

(San Mateo County
Super. Ct. No. 17SF000566)

Aaron Joseph Straiten appeals from a judgment of conviction and sentence imposed after a jury convicted him of pandering. (Pen. Code, § 266i, subd. (a)(1).) His attorney has filed a brief seeking our independent review of the appellate record, pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), to determine whether there is any arguable issue on appeal. We find no arguable issue and affirm.

I. FACTS AND PROCEDURAL HISTORY

A first amended information was filed on September 26, 2018, as appellant's jury trial began. Count one charged appellant with pimping (Pen. Code, § 266h, subd. (a)), and count two charged him with pandering by procuring a person for prostitution (§ 266i, subd. (a)(1)).¹ The matter proceeded to a jury trial.

A. Evidence at Trial

As part of a joint state and federal law enforcement operation, the San Mateo Police Department utilized an undercover officer, Detective Ruybal, to solicit acts of

¹ All statutory references are to the Penal Code.

prostitution, and rented a room at a Motel 6 as a meeting place for Ruybal and prostitutes who agreed to provide sexual services for money. Ruybal contacted prostitutes through postings on Backpage, an internet site known for advertising illicit sexual services.

Detective Ruybal set up an October 15, 2016 meeting with Katrina Nelson, a prostitute using the name Chloe who had posted a Backpage ad. They texted and spoke by phone, negotiating a price of “200 roses” for one hour of her time, “fetishes extra,” and agreed to meet at the motel.

Nelson arrived at the motel in a Ford Mustang driven by appellant, who backed into and out of multiple parking spaces, apparently to obtain a clear view of the motel entrance and detect any presence of law enforcement.

Nelson walked into the motel, where she met Detective Ruybal. After they confirmed the specific sex acts to be performed, other officers detained Nelson. Sergeant Junson Lee seized and searched the cell phone Nelson had in her hand, finding provocative photos and video as well as recent text messages sent to “Daddy” during the time she arranged to meet and provide sexual services to Ruybal. The phone also had an application called Textfree, which contained text messages negotiating and arranging sexual services with other customers.

After Nelson was detained, police contacted appellant, who was in the driver’s seat of the Mustang holding a cell phone in his hand. The officer who detained appellant saw a text appear on the screen (“I’m good. He’s actually 42.”), which had just been sent from Nelson’s phone. The officer also observed four \$100 bills, twenty-two \$1 bills, and a condom on the driver’s seat.

Appellant was interviewed by police after he was advised of and waived his *Miranda* rights. (*Miranda v. Arizona* (1966) 384 U.S. 436.) Appellant claimed he was on a date with Nelson and came to the scene at her request. Officer Lee asked appellant for permission to look through his cell phone, and appellant provided the officer with his passcode. Confronted with incriminating text messages found on his phone, appellant admitted knowing that Nelson was a prostitute but said he was just there to protect her and did not receive any money from her. He claimed that he let Nelson use his phone

and she must have posted the online prostitution ads found on it. He said he worked for United Airlines, but text messages on his phone confirmed he had resigned that job three weeks earlier.

A download of appellant's cell phone yielded 4,000 text messages and photos of appellant holding cash and wearing designer clothing and gold chains. Sergeant Lee analyzed appellant's and Nelson's phones side by side, finding the identical incriminating text messages from Nelson's phone to "Daddy," and his messages back to her. Both phones used the same account on the Textfree app, which delivered each phone's messages to both phones.

Many additional text messages were sent from appellant's phone to a series of phone numbers listed in other Backpage ads posted by other prostitutes. Sergeant Lee provided expert witness testimony interpreting in detail the messages, photos, videos, and online Backpage posts downloaded from appellant's and Nelson's cell phones. He identified a pattern of appellant "using different styles and methods in trying to recruit a prostitute that came back - - the phone number that came back to the prostitution ads." Lee opined repeatedly that the messages were all "very consistent with a pimp trying to recruit prostitutes."

B. Jury Verdict and Sentence

The jury found appellant not guilty on count one (pimping) but guilty on count two (pandering).

The court found appellant ineligible for probation, imposed the middle term of four years in state prison, and awarded appellant 116 days of pre-sentence custody credit.

This appeal followed.

II. DISCUSSION

In a declaration accompanying the opening brief in this appeal, appellant's appellate attorney represented that she advised appellant in writing of the filing of a *Wende* brief and he could "personally file a supplemental brief in this case within 30 days raising any issues which he wishes to call to the court's attention," and that counsel served appellant with a copy of the *Wende* brief. The *Wende* brief also mentions items in

the record that counsel asserts might arguably support the appeal, even though counsel did not find any arguable issue.

The 30 days have passed, and we have not received a supplemental brief from appellant.

We find no arguable issue on appeal. There is no legal issue that requires further briefing.

III. DISPOSITION

The judgment is affirmed.

NEEDHAM, J.

We concur.

JONES, P.J.

SIMONS, J.